

## ANC's tinkering won't make democracy work

**Steven Friedman, Business Day, Johannesburg, 4 May 2011**

THE government and the ruling party seem willing to do anything to fix local democracy - except making it more democratic.

It has become clear that the African National Congress (ANC) - and its representatives in the government - know local government's problems stem from the weakness of local democracy. Because many people have no voice in local government, they have no way of forcing councils to serve them. Until this changes, councils will not work for the people who elect them.

Evidence that the ANC knows that local government needs more democracy is its decision to give "communities" a role in choosing ANC candidates. But, while this recognised the problem, it has caused conflict, prompted ANC members to stand as independents against it, and last week pushed President Jacob Zuma into a retreat, which is likely to make life even more difficult for the ANC. By promising to review the choice of candidates after the election and perhaps hold by-elections where candidates were not those "communities" wanted, Zuma is inviting even more jockeying for position and so more protest and conflict.

Inviting "communities" to choose candidates is no solution to weak local democracy. Who are these "communities"? Everyone who lives in the ward? Clearly not: there is only one way of asking everyone in a ward which candidate they want - it is called an election. The entire "community" can't be summoned to a meeting to choose a candidate. Besides which, inviting everyone in a ward to choose the ANC candidate assumes that everyone supports the ANC, which they clearly do not since it never wins 100% of the vote. So "community" choice is really code for selection by the connected and the candidates were inevitably chosen by small groups of people in the name of the entire "community". The process was also an open invitation to wannabe local candidates to round up friends and dependants to vote for them and to pass them off as the "community".

This method allowed preferred candidates who were passed over to portray themselves not as politicians who lost a battle but as rejected choices of the people. And, since they had needed to round people up to vote for them, it was much easier to mobilise the same people to demonstrate in their support. The ANC's concession may ensure that all this continues well after the local election.

The problem is wanting to be more democratic - but then trying to substitute for democracy. If the ANC wants candidates to be more in touch with communities, it should send a clear message to its branches (who should choose the candidates) that they should select only people who listen to voters and should encourage members to keep pressing the winning candidates to take voters seriously. They should trust in open, democratic politics, not a process in which everyone is assumed to be in one party and small groups are passed off as everyone.

A second example of the problem was a recent radio discussion featuring Deputy Co-operative Governance and Traditional Affairs Minister Yunus Carrim. He made it clear he understands the problem. He acknowledged that voters who protest have genuine grievances, that they have a right to be heard and that the problem is that local voters do not have enough voice.

Alas, he too offered a "solution" that will only compound the problem. The government, he said, was considering including local interest groups in ward committees. These committees were established to enable ward councillors to discover what local voters want. They have never done that. Because they are either chosen by councillors or in meetings attended by a fraction of local voters, they have been colonised by political parties and so they probably do more to drown out voters' voices than to air them.

On the surface, Carrim's idea seems a step forward: interest groups are formed by citizens, not chosen by councillors. The problem is that most people do not join interest groups and so the change would substitute one group of connected people for another: most voters would remain as excluded as they are now.

The ANC and the government seem willing to do anything to ward committees except scrap them. But they remain part of the problem because committees chosen by politicians or small groups will never give grassroots citizens a voice. The answer is to replace ward committees in the large cities with a second level of elected councils closer to voters and to encourage open politics in which people are encouraged to express themselves freely to councils.

In both cases, the problem is trying to give people more voice by imitating democracy. There is no substitute for the real thing. The challenge is to make the

system work for everyone. That means creating conditions in which those who are now excluded can take part, not finding ways to "improve" a democracy that still needs to be made to work.

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**Cooperative Governance and Traditional Affairs Department, 5 May 2011**

## **Strengthening Community Participation in Local Government**

### *Challenges and Prospects*

*Given at the University of Johannesburg by*

**Yunus Carrim, Deputy Minister of Cooperative Governance and Traditional Affairs**

### **Mass Struggles Important to Transform the State**

Whatever the contribution of the armed struggle, international sanctions and the underground struggle, it was mass struggles that most contributed to bringing the apartheid state to its knees. And it is mass struggles both in cooperation and in conflict with the state that will ultimately shape the content of our post-apartheid South Africa. One thing is clear: the state cannot run away from mass struggles. It must come to terms with them and engage creatively with them. But mass struggles must also creatively engage and transform the state, not see it as a permanent obstacle. This is, after all, a state that sees itself as a “People’s State”, a “Developmental State” and a “National Democratic State” – and so where it fails, the people must hoist it by its own petard! Not weaken it! It’s what we’ve got for now! It’s through transforming it that we can deepen and advance our democracy and improve service delivery and development. And for most of those of us who are socialists, create the conditions for socialism. The state and the people, in short, need each other – and they most certainly need to strengthen their relationship. I will today look at one, if crucial, aspect of this – community participation in local

government, in particular what are the challenges, and what are the prospects of strengthening this?

Let's briefly consider the policies and laws on community participation in local government.

### **Policy and Legislation on Community Participation in Local Government**

A defining feature of the South African local government model is the space it offers to ordinary people to become actively involved in governance. In fact, uniquely, the legal definition of a municipality is that it comprises not just the councillors and the administration, but the local community as well. Deriving from this definition, each of these inter-related groupings has certain rights and duties. These are based on the Constitution and set out mainly in The Local Government: Municipal Structures Act (1998) and The Local Government: Municipal Systems Act (2001).

The Local Government: Municipal Finance Management Act (2005) also requires municipalities to consult with communities on the budget process, annual reports and service delivery issues. Among the aims of local government set out in the Constitution are "to provide democratic and accountable government for local communities" and "to encourage the involvement of communities and community organizations in matters of local government". Section 164 (4) (b) provides that no by-law may be passed unless it has been published for public comment.

In terms of The Municipal Systems Act a municipality "must develop a culture of municipal governance that complements formal representative government with a system of participatory governance". In terms of The Municipal Structures Act, "a municipal council must develop mechanisms to consult the community and community organizations in performing its functions and exercising its powers" and has to annually review its "processes for involving the community". A municipality has to communicate to the public information regarding the "mechanisms, processes and procedures to encourage and facilitate community participation", including notices of council meetings. Meetings of the Council and its committees are open to the public except in exceptional circumstances.

A municipal manager is meant to head an administration that is "responsive to the needs of the local community to participate in the affairs of the municipality" and has to facilitate "participation by the local community in the affairs of the municipality". A municipality's executive has to give an annual report on the extent to which the local community has been involved in municipal affairs. The executive must "ensure that regard is given to public views and report on the effect of consultation on the decisions of the council".

The Municipal Systems Act makes it clear that residents have the right to contribute to the municipality's decision-making processes. They also have the right to submit recommendations and complaints to the council and are entitled to prompt responses to them. They have the right to "regular disclosure of the state of affairs of the municipality, including its finances". In order to encourage residents to pay promptly for their services, municipalities are required to inform them about the costs of providing the services, the reasons for the payments of the fees, and the uses to which the monies raised are put. Residents also have the right to give feedback to the municipality on the quality and level of services offered to them.

Residents are encouraged to participate in the:

- preparation, adoption, implementation and review of IDPs;
- preparation of a municipality's budget;
- establishment, implementation and review of a municipality's performance management system;
- monitoring and review of a municipality's performance;
- decisions about the provision of municipal services.

The extent of consultation on these aspects is meant to be substantial, not token. For example, The Systems Act requires communities to be consulted even on the process for the planning, drafting, adopting and reviewing of IDPs. Where there are disputes between the local community and the council in regard to the planning, drafting, adopting and reviewing of IDPs, the MEC is required to intervene.

Municipalities have to use their resources and annually allocate funds in their budget, as they can afford, to develop a culture of community participation. Municipalities have to contribute to building the capacity of the local community to participate in municipal affairs and the councillors and staff to foster community participation. In establishing structures and processes for community participation, the special needs of women, the disabled, the illiterate and other disadvantaged groups have to be taken into account.

Crucially, the model provides for Ward Committees to be set up in each ward of a municipality in order to "enhance participatory democracy". A Ward Committee may make representations on any issue affecting a ward to the councillor or through the councillor to the council. A Ward Committee can play a role in identifying the needs and priorities of the ward, disseminating information on municipal issues in the ward, and ensuring the residents are mobilized. It can exercise any duty or power delegated to it by the council. A Ward Committee comprises the ward councillor as the chairperson and up to 10 other people

representing a “diversity of interests in the ward”. Women have to be “equitably represented” in a Ward Committee. The term of Ward Committee members coincides with the term of councils.

While a municipality may not provide committee members a salary, a 2008 amendment to The Municipal Structures Act provides for “out of pocket expenses” for members and for Councils to “allocate funds and resources to enable ward committees to perform their functions, exercise their powers and undertake development in their wards within the framework of the law”. In terms of the Code of Conduct in The Municipal Systems Act, councillors are required to have at least four public report-back meetings.

But if residents have many rights, they also have duties. They have to take responsibility for ensuring that the municipality functions effectively. They are required to promptly pay the municipality monies owed to it, within the framework of an indigence policy for those who cannot pay. They have to respect the municipal rights of other residents, comply with by-laws, and co-operate with councillors and officials who are fulfilling their legitimate roles. Essentially, the model, overall, seeks to provide a balance between giving residents the fullest space to participate in municipal affairs and ensuring the right of councillors to ultimately govern.

### **Challenges in Implementing Community Participation**

It is an advanced, progressive model of community participation. How many countries anywhere have such sweeping, comprehensive policies and legislation on community participation in local government? Despite its inadequacies, The Municipal Systems Act is a glorious piece of legislation. For those of us active in the civic movement of the 80s, it represents all and more that we struggled for. But, of course, the policies and laws on community participation are not working well. There are many indications of this. The community protests, about service delivery and much else too, communicate this glaringly. The reasons for the model of participation not working are many and complex. Mainly they have to do with challenges in implementation; but partly they reflect inadequate policies and legislation. To say this is not to suggest that community participation must only occur within the policy and legislative framework. Of course, people through mass struggles also create their own spaces to engage local government and the state more generally – and they must be listened to.

But for now let’s briefly look at why the policies and legislation are not working well. In the first place, they have not been internalized by councillors and administrators. Most municipalities do not fully appreciate the value of community participation. Some councillors and administrators are wary of, or even fear,

community participation. With some it's too much of a hassle, holds up speedy and efficient service delivery, they feel. Not enough has been done to foster a culture of community engagement among councillors and especially administrators, as is required by the law. So, many municipalities meet the policy and legislative requirements for community participation in a nominal, compliance-driven, ritualistic manner.

But there are also major funding and capacity challenges. Engaging with communities is costly and time-consuming, even if the results of effective engagement significantly outweigh the costs. Municipalities do not have the funding and other resources to empower councillors and administrators, let alone community organizations, to ensure effective community participation. Even where there are the resources and the will, there is not necessarily the skill. Councillors and especially administrators have to develop skills to effectively engage with communities, even if they also need a good instinctive sense.

But the lack of funding and other resources should not be exaggerated either. If municipalities are more committed to community participation they can be creative about engaging communities using limited resources. What can be more important is the right mindset, a particular culture of engagement, a certain will among councillors and administrators!

Often the approach of municipalities to community participation is too bureaucratic, formalistic and rigid, and sometimes aimed at co-optation. Documents and presentations are cluttered with technical jargon and not user-friendly, easy to engage with or stimulating. They are not always translated into indigenous languages either. Municipalities often tend to approach communities and organizations as a way of informing them of proposals and seeking their endorsement for them. They sometimes negotiate with them. But this does not constitute effective participation which has to be directed at ensuring that communities have a significant say in setting out their needs and priorities and in making decisions affecting their lives, as well as playing an important role in implementing decisions.

Of course, the level and nature of community participation in a municipality often reflects the general state of the municipality. It is not easy to understand why community participation is not working in a municipality without linking it to other aspects of a municipality's responsibilities. Improvements in other areas can contribute to better community participation and improvements in participation can contribute to the better functioning of the municipality as a whole.



Community participation is key to IDPs and budgets. But it's not taking place to the extent it should. I refer to a recent input of mine about IDPs:

- “The extent of public participation in IDPs varies across municipalities. The commitment of municipalities ranges from mechanical compliance with the law, if that, which involves very little community participation and is of little, if any, effect, to generally half-hearted consultation with reasonable numbers of people to some limited effect, to largely genuine engagement in a minority of cases in which communities take a fair measure of responsibility for IDPs and participate actively in aspects of its implementation.
- Public participation is crucial to effective IDPs. But getting effective participation is difficult. Councils and administrators have to be trained to be good listeners and to encourage community and stakeholder participation through a variety of forms. It is never easy to tell how minimal or extensive a draft IDP framework should be to facilitate initial discussions at meetings of communities or representative organizations, and wrong choices in this regard can have negative consequences. IDP documents often deal with strategic and technical issues, but to encourage participation they have to be brief, user-friendly and accessible – which many are not. Besides general community meetings where everybody is allowed to participate, there have to be smaller meetings and workshops of key representatives to have more in-depth discussions on more strategic and technical issues. Municipalities have to establish IDP Representative Forums, including representatives from business, labour, community and other organizations. Many municipalities also draw in representatives of the Ward Committees in the IDP Representative Forums, besides also engaging with Ward Committees separately. In many municipalities traditional leaders or their representatives also need to be included. Most municipalities do not ensure effective participation of the private sector – and they need to attend to this. Of course, it is not always easy to identify the key stakeholders who should participate in IDP meetings. Just how representative are some of the participants in the IDP structures and do they report-back to their constituencies and get mandates? It is not always clear.
- Often engagements with communities on their needs as part of the IDP process ends up with little more than popular “wish lists”. There is an understandable tension between the communities’ immediate needs and the municipality’s strategic considerations of a five-year plan that has to take into account various competing needs and be implemented with limited resources. As a DPLG review (2007) notes: “Communities often prioritise

visible delivery needs, and do not understand the importance of invisible service delivery needs, such as bulk infrastructure”. Sometimes councillors, instead of seeing the IDP as primarily a municipal-wide strategic plan, tend to push for their pet projects or the immediate needs of their constituents which can, at times, undermine some of their constituents’ long term interests. The stress is on quick wins rather than developing a long term strategy with sustainable outcomes. Also, some of the issues people raise, like housing, education, crime and jobs are primarily the functions of national and provincial government, and municipalities cannot on their own deliver on them.

- Overall, while the level of participation in the IDP process has not been adequate, there has been significant participation in some municipalities over different times. Usually, the bigger and better-resourced municipalities have had higher levels of participation. Obviously, participation is not just about numbers, but quality too. Ultimately, what is clear is that without effective community participation IDPs and indeed the local government as a whole will not work properly.”

Ward Committees are the key structures of community participation in municipalities. There are 3895 wards in the country and 3790 Ward Committees. With the 18 May elections there will be 4277 wards. Ward Committees for the most part are not working well. Many of the above challenges in implementing community participation also apply to Ward Committees. But they also have specific problems.

Ward Committees are often dominated by political party activists, sometimes almost becoming adjuncts to party structures or sites of contestation between political factions, instead of representing the diversity of civil society interests in the ward community that they are meant to. Wards, especially in rural areas, are sometimes too large to make for functional Ward Committees. Many Ward Committees are hamstrung by the lack of administrative support, resources and training of its members. Most municipalities are unable to pay the out-of-pocket expenses of Ward Committee members.

As the Ward Committees are chaired by ward councillors, and the Committee’s proposals are primarily processed to the municipality through the councillors, their success depends in good part on the availability and commitment of the councillors. Many Ward Committees are stymied by the tensions between the ward councillors and the Committee members, some of whom harbor ambitions to replace the councillor. There are tensions too between highly paid CDWs (Community Development Workers), who are meant to actively and expeditiously link residents

with government departments to accelerate service delivery, and Ward Committee members who are not paid, except for those who get out of pocket expenses.

The value of the decisions of Ward Committees is not always clear as there is no legal obligation for the municipality to consider these decisions. Also some of the issues taken up by Ward Committees fall beyond the responsibilities of local government and are within the competencies of the provincial and national government and so are difficult to take further. Often because of the lack of administrative support, decisions never get beyond the Ward Committees. Over time, this failure to secure responses to decisions leads to members of the Ward Committees losing interest.

Ward Committees do not always seem to recognize the importance of seeking mandates from and reporting to the ward community. They do not mobilize the ward community to become active in local government issues.

The challenges referred to already apply in different forms too to participatory budgeting and community participation in other aspects of local government.

It does not do though to make out that the problems with community participation lie simply with the state. Communities too must take a share of responsibility. Communities do not often use the space for community participation effectively or at all. Of course, residents are not often aware of their rights to participate and the spaces open to them, and municipalities do not always inform them appropriately. But this is not enough of an explanation. Partly, it is necessary for community organizations to improve their understanding of the local government system and how to engage with municipalities. They must put pressure on municipalities to provide the support for some of this training, but they also need to independently find means of doing this. Some of the training anyway doesn't require much funding or other resources.

As much as community participation is crucial to the success of municipalities, we should guard against romanticising it. Communities are far from monolithic and immune from capture by elites who primarily represent their own narrow interests. Many communities, particularly in informal settlements, are very fractured. They are highly contested, complex and multi-layered, with fluctuating leaderships, with different strata or factions constantly competing for hegemony. Exactly how representative of the communities the leaders are and how stable, is not always clear. Identifying needs, priorities and targets in these communities and ensuring participation in implementation of plans, programmes and projects can be difficult. Allocating resources at times compounds the contestations and fuels further

conflicts within these communities. Ensuring effective community participation in these conditions can be very challenging. But it is all the more necessary.

Of course, community protests are important and must be heeded but we should guard against narrowing them down to service delivery issues. Of course, many are about that, but many are about that and other issues, and some of them are not about service delivery issues at all. But even if some of them, especially many that have broken out in the past few months, stem mainly from political infighting, it must be recognized that people are not sheep and are mobilized because they have service delivery concerns in the first place. All the same, the reasons for the protests are many, varied and complex. The protests have structural, systemic, political, economic, governance, psychological, emotional, and other dimensions. Part of the context of the protests is the in-migration from the rural areas and beyond the country into the cities and larger towns, and the consequences of the global economic and financial crisis, with the loss of over a million jobs and the increases in the cost of living.

Government, civil society organisations and technical experts have noted that many of the protests have, in fact, been taking place in better performing wards and municipalities where there has been significant service delivery. A sense of relative deprivation is spurring part of the protests. Many of the protestors come across as outsiders, those who feel they have not got what is due to them, and will never ever do so, while others not far from them, not so long ago, not that different from them, have got something, and have become “insiders”.

The protests are not just about service delivery but a range of other municipal issues, including maladministration, nepotism, fraud, corruption and the failure of councillors and administrators to listen to residents. And they are not just about municipal issues. Many of the issues raised, such as housing, jobs, health, crime and education, are not the primary responsibilities of local government, but provincial and national government functions.

Clearly, municipal councillors and officials must take their fair share of blame for the protests. But to blame them solely for everything would be simplistic. Many of the protestors are alienated from the state as a whole, not just local government, and not just the whole state, but from society too.

It is the rage of sections of the protestors and the extent of violence and destruction they wreak that is striking. It reflects a far more fundamental alienation of people from our democracy. It suggests an acute sense of marginalisation and social exclusion. It is anger, frustration, hopelessness that fuels some of the

protestors. In many cases, burning clinics, libraries, social welfare offices and other violent behaviour constitute both acts of destruction and self-destruction.

It may well be that some of them have passed the threshold, and their sense of persistent exclusion since 1994 is so entrenched that even significantly improving their material conditions is not going to serve to easily re-integrate them into society. For many of them, their sense of social exclusion has served to reinforce their brutalisation and dehumanisation under apartheid. For them, in other words, things were very bad under apartheid and things have just not got better enough under democracy. They are, I think, going to constantly pose a challenge to our democracy and we will have to come to terms with this.

For others, the violent behaviour constitutes acts of affirmation. It is seen as legitimate radical protest against a state that refuses to respond to their basic needs and as an important means of achieving these. After all, in the struggle against apartheid such means were also used. These protestors draw on the legacy of the liberation struggle.

But this is a democracy. Protests are a legitimate part of a democracy and can serve to enhance its quality. But violence isn't. Of course, we condemn the violence. But doing so is not going to end it. We need to better understand the violence to more effectively respond to it.

Given the wide-ranging issues raised by the protests, it is better to speak of them as community protests rather than service delivery protests since they are much more than that. Above all, the protests signal the inadequacies of the current processes and structures of community participation, especially Ward Committees, and the weaknesses of the branch and other structures of the ANC. The complex structure and dynamics of communities and the municipal landscape means that improving community participation is not going to be easy. Certainly, there are no easy answers that can be given action to overnight. Changes are certainly possible and necessary – but they will have to be organic, incremental, sustainable.

Let's look at some things that could be done.

### **Towards Ensuring More Effective Community Participation**

In the first instance, municipalities should implement much more of what is in the policies and laws. Since they cannot or will not, provincial and national government have to far more actively monitor municipalities and assist them to do so. Assistance with strategies, programmes, capacity, funding and other resources is very important – but it is crucial that councillors and administrators internalise the

value of community participation and imbibe a culture of engagement with communities.

Municipalities have to listen more to communities and be more caring, and they have to respond to letters, petitions and other forms of representations made to them. Many protests break out after communities became frustrated with the municipalities failures to even acknowledge their letters and other representations. It is by protesting that communities feel they finally get some attention, even if not adequate.

Municipalities have to understand that if their aim is to basically get communities to endorse decisions already taken, community participation will not work. It must be directed at ensuring communities have an effective say on decisions affecting them and the space to play a role in implementing them, even if the council is ultimately responsible for governing the municipality. Community participation must serve to strengthen and empower communities. For community participation to work, communities have to see the value of participating through at least some of their reasonable demands being met over time.

As several court cases have shown, citizens have strong legal rights to participate in decisions affecting them. In the *Drs for Life* and *Matatiele* cases, the Constitutional court judgments made this very clear. Although these cases applied to the national and provincial legislatures, they are also relevant to municipalities, perhaps to an even greater extent since the rights of communities to participate in municipal issues is so much more explicitly and comprehensively set out in the Constitution, legislation and policies. Courts have certainly decided on the legality of municipal decisions on the basis of whether there was sufficient consultation with communities or not. So it is, in the case about Johannesburg installing pre-paid water meters (*Mazibuko and Others v City of Johannesburg and Others*) the court decided that the Ward Committees had been properly engaged and other forms of community interaction had taken place on the meters and so the decision met the requirements of the law on community participation. But in the *Makhado* name-changing case, the court struck the decision down because the municipality did not discuss the issue in the Ward Committee and the necessary consultation had not taken place.

Municipalities should avoid a bureaucratic, technocratic, “one-size-fits-all” approach and be flexible, creative and imaginative in their engagement with communities, using a variety of different processes and structures with different communities and even within the same community. There are lessons from Porto Allegro in Brazil, Kerala in India and elsewhere that might be of value. Drawing on the experience and expertise of effective NGOs and relevant experts in our own

country might also be useful. To facilitate and coordinate community participation there should be a Public Participation Unit in the Speaker's Office of each municipality.

There are many things that can be done to create space for more effective community participation. Because of time limits and other constraints I will not be able today to deal with a comprehensive range of the possibilities. I'll focus mainly on Ward Committees as they are the most important structures of community participation and have the most potential. Of course IDP Forums, structures of participatory budgeting and other structures of community participation are important, but Ward Committees, with their base in wards, if transformed and empowered, are key to any strengthened system of community participation in a municipality overall. It is only in the local sphere that we have directly elected public representatives, and it is through Ward Committees that they can best be held to account and act on the needs and interests of those who voted them, making democracy more than just about voting or being elected once every five years. Many of the proposals raised about Ward Committees here can be adjusted to strengthen IDP Forums and other structures of community participation.

When processing the municipal legislation through parliament we were told that it would be unconstitutional to prescribe that municipalities must have Ward Committees. So we crafted the legislation such that while it was not mandatory, it was strongly encouraged. The figures of the numbers of Ward Committees given already show that Ward Committees have become common, even if they are not functioning effectively.

CoGTA has been discussing how to strengthen and empower Ward Committees as part of improving community participation. A "refined Ward Committee model to deepen democracy" is now output 5 of the outcome 9 Delivery Agreement the CoGTA Minister has signed with the President. No final proposals have been made on how to change the Ward Committees. The ANC is to discuss a new Ward Committee system at the December 2012 Conference and will provide guidelines for the government to take the matter forward. The proposals will be discussed with the fullest range of stakeholders.

Obviously, it's not possible to raise all the Ward Committee issues discussed within CoGTA here. I'll raise only some. And some of the issues raised are my own reflections which have not yet been discussed within CoGTA. Let me present the issues in a condensed form for now.

- **COMPOSITION:** Consideration needs to be given to amending the legislation to ensure that Ward Committees do not comprise political party activists but

represent a range of civil society interests, including residents, ratepayers, business, trade union, women's, youth, taxi, sport and cultural organisations. Traditional Leaders should also be in Ward Committees where relevant. Instead of the current 10, Ward Committees could comprise up to 30 people and set up sub-committees and area structures, especially in geographically large wards. Within national framework regulations, MECs could provide guidelines on what criteria to use in determining the issues of numbers, diversity of groups, elections procedures and the like. Where possible, the elections to Ward Committees could be overseen by representatives of the Municipal Electoral Officer. In deciding on ward boundaries, the Municipal Demarcation Board could take more seriously the requirement that there need to be functional Ward Committees. To rationalise the plethora of statutory bodies of community participation, save costs and ensure greater effectiveness, consideration also needs to be given to whether School Governing Bodies, Community Policing Forums, Health Forums and other structure should not also be incorporated into Ward Committees? At the very least, they should have a structured relationship with Ward Committees. Obviously, there will be resistance to this, but there needs to at least be a discussion with the Education, Police, Health and other Ministries, and a range of civil society stakeholders and individual experts. Another challenging issue is whether the councillor should continue to chair the Ward Committee. One proposal is that the councillor should be an ex-officio member of the Ward Committee which should be chaired by another member of the Committee – but we should be very cautious about this as the conditions have not necessarily matured to effect this, and we could end up with many more problems than we currently have. At least though, Ward Committees should have Deputy Chairpersons who are civil society representatives who can take responsibility for the Ward Committee when the councillor is not available. Consideration also needs to be given to Proportional List councillors also serving ex-officio on Ward Committees. MDB.

- **EXPANDED ROLE:** Through legislative amendments, policy changes and other means, Ward Committees need to be given an expanded role. Consideration needs to be given to amending the legislation to specifically mention Ward Committees and not just refer to structures in general in most provisions that deal with community participation - for example, in respect of IDPs, budgets, performance management, and strategic decisions about service delivery provisions. Within a clear framework and in an incremental, experiential manner, municipalities should consider delegating some limited powers to Ward Committees, as allowed for in terms of the law. But even without delegations Ward Committees could do much. Ward Committees could take



also responsibility for Ward Development Plans that feed into and respond to the IDPs. The experiences of community-based planning (CBP) in some wards could be developed further and become more widespread. Ward Committees could draw up annual profiles of the ward community. They could also oversee the delivery of services and development in the Ward, including possibly contributing to the municipality's assessment of the quality of the services provided by a contractor before the contractor is fully paid out. Where possible, within clear guidelines, municipalities should incrementally allocate resources to "enable ward committees to undertake development in their wards", as is provided for in the law. Ward Committees could, at least, take some responsibility to fix potholes, pavements, street lights and similar issues, using local labour. Of course, the allocation of funding and resources and power to employ labour could produce tensions within Ward Committees and communities, and will need to be managed adroitly.

- **MUNICIPALITIES OBLIGED TO CONSIDER WARD COMMITTEE DECISIONS:** Consideration needs to be given to amending the legislation to oblige municipalities to consider proposals from Ward Committees and inform them of their responses. Within reasonable limits, Ward Committees should be given reasons for why their proposals were turned down, should they request this.
- **FREQUENCY OF MEETINGS:** Ward Committees could be required to meet at least once a month. Meetings could be chimed to fit in with meetings of the Council or other important structures or committees of the municipality. Meetings could, for example, fit into the municipality's annual cycles on IDPs and budgets. The Ward Development Plan could provide a framework for the programme and operational plan of the Ward Committee.
- **ACCOUNTABILITY TO WARD COMMUNITY:** The Ward Committee could be required to hold at least 4 Ward community meetings and interact with the community regularly in other ways.
- **CODE OF CONDUCT:** It might be useful to have a Code of Conduct for Ward Committee members.
- **ANNUAL REPORTS:** Where possible, ward Committees could be required to present annual reports on their activities and their future plans and programmes.
- **MUNICIPAL ADMINISTRATORS ATTENDANCE:** Where possible, an appropriate member of the municipal administration could attend ward Committee

meetings to assist with processing issues, providing information and being of help in similar ways. If it is somebody relatively senior with some decision-making-power that would be even better. This would be particularly useful where municipalities have decentralised regional administrations which could allocate representatives to clusters of Ward Committees.

- **CDWs ROLE:** Consideration needs to be given to attaching a CDW to each Ward Committee to act as a general secretary or organiser of the Committee while continuing with other aspects of their work linking people actively with government in all three spheres to improve service delivery and development.
- **TECHNICAL SUPPORT:** Municipalities should provide administrative and other support, including for the training of Ward Committee members.
- **FUNDING:** Clearly municipalities have to allocate funding, office space and other resources to Ward Committees. Many municipalities will not be able to afford this. National government has to consider allocating funding for Ward Committees. Obviously, there will have to be strict guidelines on how the funds can be used and strong accountability for them. Municipalities must, at least, pay Ward Committee members out-of-pocket expenses, but where affordable, over time, could provide for modest allowances. Given the high levels of unemployment and dependency on the state for income, there will, understandably, be a huge scramble to serve in the Ward Committees and huge tensions could arise. Payments to Ward Committee members of any kind will have to be dealt with cautiously, incrementally and sensitively.
- **MUNICIPALITY OVERSIGHT:** The PPU in the Speaker's Office could monitor support and report on the functioning of Ward Committees. Part of the KPIs of the PPU staff could be the performance of the Ward Committees. For the PPUs to be effective, they will have to take into account the complexities and contradictions of communities, some of which were mentioned earlier. Where funding and other resources are provided the municipality must actively monitor that Ward Committees use them productively and effectively in terms of the law and policies. If Ward Committees do not function effectively, municipalities could consider dissolving them as they are empowered to do in terms of the law. Learning the lessons, municipalities must then assist to create effective Ward Committees.

For Ward Committees to be properly effective, other forms and structures of community participation also have to be effective. The proposals presented here on Ward Committees need further discussion. Some of them are part of the

preparations for discussion at the ANC's 2012 Conference. Obviously, there will also be discussions in the public domain on these and other proposals. We need the widest range of stakeholders involved. You are more than welcome to engage on the issues.

### **Towards a Dialectic of “Invited” and “Invented” Spaces**

Effective community participation can take place through a variety of processes, forms and structures, through those provided for in terms of official policies and the law, as well as those shaped by communities through their independent struggles. Sections of community organisations, NGOs and experts believe that the processes and structures for community participation provided by municipalities, that is, the “invited spaces”, are designed to co-opt and defuse mass struggles. They argue that “public participation has by and large become a technicist and procedural exercise, driven by the state on terms set by the state”. They feel that communities should focus on the spaces “invented” or “claimed” by them, and they criticize municipalities for ignoring community activities in these spaces. An interesting publication released recently that carries a range of articles that, for the most part, make this case, to some or other degree, is the Good Governance Learning Network's (GGLN) *Recognising Community Voice and Dissatisfaction*. There is not time here to respond to this publication in any detail. As CoGTA, we will be engaging further with GGLN in the next few weeks. But a few brief condensed remarks.

The publication seems to unduly polarize “invited” and “invented” spaces. Of course, communities cannot be confined to “invited” spaces, especially if municipalities are not responsive. But why can't “invented” and “invited” spaces be complementary? Dialectical? After all, even the post-1994 “invited” spaces have not just been created by a benevolent government! They are mainly an outcome of the mass struggles, particularly of the civic movement, of the 80s and early 90s – in other words, the “invented” spaces created by ordinary people. Many “invited” spaces are ultimately the outcomes of “invented” spaces. Struggles that “invent” spaces have a logic, as it were, of their own, and are not necessarily directed at creating more “invited” spaces, and such spaces could, in certain circumstances, constrain and defuse progressive struggles - but this need not be the case, and mostly is not. And unless struggles in “invented” spaces are directed at the overthrow of the state, they have to at some time or another intersect with or impact on “invited” spaces. In other words, “invented” spaces do and should contribute to widening and transforming “invited” spaces for the better, and these spaces could in turn contribute to creating more “invented” space. There's no Chinese Wall between “invited” and “invented” spaces.

Are “invited” spaces inherently demobilizing? Or is it more accurate to say that the structures operating in them are not working well? Yes, there is an element of municipalities wanting to control and streamline community participation from above, and this might demotivate people. But isn’t it more that the Ward Committees and other structures of community participation are just not functioning adequately? That if they did, the gap between “invited” and “invented” spaces would be reduced?

Municipalities should certainly pay attention to struggles waged in “invented” spaces. This might also help to reduce the gap between “invented” and “invited” spaces. At the end of the day, it’s in the interests of both a progressive state and progressive people that there is effective community participation in governance.

And, finally, it’s in all our interests, whatever our views or loyalties that large numbers of people participate in the 18 May local government elections. We can talk all we want about what effective community participation in local government means. But what good would that be if not enough people vote in the elections? Of course, the vote is not all. But in an emerging democracy like ours it’s a lot. Not as an end, but as one of many means. But a fundamental means! For which so many sacrificed so much for so long!

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**From: <http://www.cogta.gov.za/index.php/component/content/article/174-yunus-carrim/282-strengthening-community-participation-in-local-government-challenges-and-prospects.html>**

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**Cooperative Governance and Traditional Affairs Department, 13 May 2011**

## **Strong Ward Committees only Part of the Solution**

*A Reply to Friedman*

**Yunus Carrim, Deputy Minister of Cooperative Governance and Traditional Affairs**

“Imitations” or “substitutes” of democracy? The ANC’s attempt to give people outside its branch structures some say on its candidates for municipal elections? And CoGTA’s (Cooperative Governance and Traditional Affairs Department) proposals to strengthen Ward Committees? Hardly fair or reasonable comments from astute commentator Steven Friedman (“ANC’s tinkering won’t make democracy work”, Business Day, 4 May).

Both the ANC’s candidate selection process and CoGTA’s ward committee proposals are aimed at ensuring more, not full, community participation, and are not, on their own, “solutions” but aspects of an overall strategy to incrementally improve participation.

In the context of “one party dominance”, the ANC has been criticized because its candidates are chosen by branch activists, and other ANC voters have no choice but to vote for them, even if the candidates are not known in the community. So here was an attempt to let community members have some say. Not the final say. Where community choices differed from ANC branches, List committees and higher ANC structures would finally decide, sometimes favouring the community’s choice, at other times the branch’s.

Finalising the ANC's candidates is always challenging. It's a sophisticated, complex balancing act, involving grassroots democracy and leadership interventions, to ensure the inclusion of the full range of constituencies and strata we represent. More specifically, 50% of our candidates had to be women, in a reasonable mix of list and ward candidates. There were targets too for racial inclusivity and serving councillors being returned. It is a remarkably democratic and fair system. No other party in this country and few elsewhere have anything like this.

Obviously, given unemployment levels and the huge dependency on incomes from the state, the stakes are high. Some of the tensions and a measure of abuse of the process are inevitable. There invariably have to be trade-offs in meeting the different targets, which opened the space for party elites to in some cases unfairly get their way. But the community consultation also gave space to local elites to mobilise sections of communities to ensure that they or those they championed became candidates or sometimes simply to oppose the ANC branch's choice. This was easy to do because residents have legitimate grievances about service delivery in the first place.

It's against this background that some of the problems with consulting communities have to be understood. It was the first time this more comprehensive approach to deciding candidates was used, and there were difficulties in implementing it. Perhaps we should maybe have started the process earlier? But the approach is correct, especially as we recognize its limits, some of which Friedman also points to. We need to clarify and improve the process, not forego it.

Friedman says we should scrap ward committees! No, no! It is only in the local sphere that we have directly elected public representatives, and it is through ward committees that they can be most effectively held to account and act on the needs and interests of those who voted for them, making democracy more than just about voting or being elected once every five years. My fleeting remarks on radio that Friedman refers to were not meant to suggest that improving the representative nature of ward committees would be the "solution". Stronger ward committees are just one form of encouraging more active community participation in local government. But if they work well, they will strengthen community participation generally. The ANC's 2012 Conference will provide guidelines on improving ward committees and other forms of community participation. Government and parliament will facilitate discussion on this with stakeholders and the public before final decisions are taken.

Instead of being "colonised by political parties", ward committees could be made up of representatives of residents, ratepayers, business, trade union, women's,

youth, taxi, sport, cultural, traditional and other organizations. They could maybe comprise up to 30 people, instead of the current 10, and could establish sub-committees and area structures, especially in geographically large wards. Ward Committees could also be required to hold at least 4 Ward community meetings and interact with the community regularly in other ways.

Among other issues being considered are: incrementally delegating limited powers to ward committees; giving them responsibility for such issues as fixing street lights, potholes and pavements, using local labour; encouraging them to adopt Ward Development Plans; allowing them to monitor the delivery of services in the ward, including commenting on the quality of new services provided before a contractor is fully paid out.

Consideration also needs to be given to legally obliging municipalities to consider proposals from ward committees and, within limits, give reasons for their responses. Provincial and national government departments also need to take into account the role of ward committees in their roll-out of their programmes. Community Development Workers, who connect residents with government departments to expedite services, could be allocated to ward committees to improve coordination and assist their functioning. Where possible, an administrator could attend ward committee meetings, especially where municipalities have decentralised regional administrations.

These proposals and others will take considerable effort, time and resources to implement. National and provincial government will have to assist municipalities with capacity, funding and other resources as part of an incremental implementation programme. With more powers and resources, new tensions could arise in ward committees. The transformation process will have to be managed adroitly.

Apart from ward committees, other forms of community participation also need to be strengthened. Municipalities need to be flexible about the options. Communities also create their own spaces for participation, and municipalities should also engage in these. It would be useful to have a Public Participation unit set up in the Speaker's Office of each municipality.

Friedman proposes replacing ward committees with a second layer of elected councils. But having another council layer is not practical. As it is, we have huge challenges with the two-tier District and Local municipality model. And already voters have three votes in elections in Local municipalities.

We should not have too romantic a view of community participation. Many

communities not represented in ward committees are also subject to elite capture. These communities, especially in informal settlements, are volatile, fractured and factionalised, with different strata in constant contest for hegemony. For them to consistently identify their needs and participate in their own development can be difficult. The allocation of municipal resources at times fuels further conflicts within these communities.

Of course, communities spontaneously wage major struggles and win! But for effective democracy and sustainable development there has to be a balance between a community's right to participate and elected councillors' right to ultimately govern. It's in finding this balance that maybe we differ with Friedman. If we are accused of being too state-centric, Friedman may be too community-centric.

But if we disagree with Friedman on this balance and on some of his proposals, and what is do-able in different contexts, and maybe even what the context is precisely, we agree with most of Friedman's principles and values on a people-centered democracy. It's good that Friedman is there to constantly raise these issues and challenge us. We need to engage with him more. I'll certainly do so, including privately.

- ***An edited version of this appeared in "The Business Day"***

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From: <http://www.cogta.gov.za/index.php/component/content/article/174-yunus-carrim/283-a-reply-to-friedman-strong-ward-committees-only-part-of-the-solution.html>

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**From Resolutions of the 53rd ANC National Conference**

**16-20 December, 2012**

#### **4. LEGISLATURE AND GOVERNANCE**

*“Towards More Integrated Cooperative Governance as Part of a Developmental State”*

#### **8. Strengthening Ward Committees as Part of Community Participation**

8.1. The Commission noted the vital importance of ward committees and community participation in ensuring that municipalities function effectively.

8.2. The Commission resolved:

8.2.1 Ward committees should be made up of a diversity of community interests, not be dominated by political activists.

8.2.2 Ward committees should comprise up to 30 people in geographically large wards, in which there could also be area structures of the Ward Committee.

8.2.3 Within an incremental framework, some powers should be delegated to the more effective ward committees. Ward committees could take responsibility for fixing potholes, pavements, street lights and similar issues.

8.2.4 Municipalities should be obliged to consider proposals from ward committees and inform them of their responses.

8.2.5 To the extent possible, municipalities should provide resources to ward committees and provide members with some financial support.

8.2.6 To consider whether a CDW (Community Development Worker) is attached to each ward committee as a field worker.

8.2.7 Consider whether School Governing Bodies, Community Policing Forums, Health Forums and other structures should be part of Ward committees.

8.2.8 Ward Committees should engage more with Thusong Centres.

8.2.9 Ward committees should be linked to other forms of community participation.

8.2.10 A spirit of volunteerism should be encouraged so that residents take more responsibility to improve the communities in which they live without expecting a material reward for this.

8.2.11 Municipalities should also respond more effectively to community participation outside of the state structures.

8.2.12 Municipalities should engage more with community organizations in ways that reduce the prospects of service delivery protests.



**Course: Induction**

**24093a, Friedman, ANC's tinkering won't make democracy work, 2011**

**24093b, Carrim, Strengthening Community Participation, 5 May 2013**

**24093c, Carrim, Strong Ward Committees only Part of the Solution, 13 May 2011**

**24093d, Strengthening Ward Committees, ANC 53rd National Conference, 2012**

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